

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13853, of Van Dorn E. Rowls, pursuant to Sub-section 8207.2 of the Zoning Regulations, for special exceptions under Paragraph 3105.410 and Sub-paragraph 3105.475 to use all floors of the subject premises as an adult rehabilitation home for twenty residents and nine staff and from the prohibition against establishing such use when there is another community based residence facility in the same square and others within 500 feet of the subject site in an R-5-B District at the premises 1303 Clifton Street, N.W., (Square 2866, Lot 520).

HEARING DATE: October 27, 1982

DECISION DATES: December 1, 1982 and January 5, 1983

FINDINGS OF FACT:

1. The subject property is located on the north side of Clifton Street between 13th and 14th Streets, N.W. and is known as premises 1303 Clifton Street, N.W. It is in an R-5-B District.

2. The subject property is rectangular in shape containing 2,599 square feet of land area and having a frontage of twenty-three feet on Clifton Street. It is improved with a three and one half story brick row dwelling.

3. Abutting the site to the north are row dwellings with frontage on 13th Street in the R-5-B and the R-4 Districts. Abutting the site to the east is a semi-detached dwelling at the northwest corner of the intersection of 13th and Clifton Streets, N.W. Across 13th Street are apartment houses in the R-5-B District. At the southeast corner of the intersection of 13th and Clifton Streets is the Cardozo High School. Immediately to the west is a row dwelling, followed by apartment houses in the R-5-B District. To the south across Clifton Street are apartment houses known as the Clifton Terrace apartments in the R-5-B District. The site has no alley access.

4. The subject structure is presently divided into four one bedroom apartments and seven large individual rooming units. It is licensed as an apartment/rooming house and is presently vacant except for one unit which is occupied by a family in the process of relocating. The structure was previously occupied by eighteen to twenty persons.

5. The applicant testified that the subject structure needed interior renovation regardless of the use to which it may be put. He testified that all tenants were informed of the work and that he offered to relocate them.

6. The applicant proposes to lease the subject property to the Bureau of Rehabilitation, hereinafter referred to as the Bureau, a private non-profit organization providing adult rehabilitation services under contract with the D.C. Department of Corrections. The Bureau proposes to use the property to house men with felony offenses or under pre-trial detention or sentenced court orders. The Bureau has existed for fifty-two years.

7. The applicant proposes that the use of the subject premises 1303 Clifton Street as an adult rehabilitation facility will be an extension of an existing adult rehabilitation program operated by the Bureau next door at 1301 Clifton Street.

8. A capacity of twenty residents and nine staff are proposed for the subject structure. The existing facility at 1301 presently has twenty-five residents and a capacity for thirty-one.

9. The applicant and the Director of the Bureau program at 1301 testified that the proposed program at 1303 would have the same director and cook, but different case workers than the program at 1301. It was contemplated that a physical connection or opening could be made between the structures, but that approval from the owner of 1301 was needed.

10. Upon the completion of the initial testimony of the applicant and the Bureau as to their intent to consider the subject application as an extension of the facilities and program at 1301 Clifton Street, N.W., the Board advised the applicant that, under Paragraph 3105.410 the Board does not have authority to approve more than twenty residents in a single adult rehabilitation home.

11. The applicant determined to argue the application on the basis as advertised, that is as a proposal to establish a separate independent adult rehabilitation home. The subject site will be a specific location for the proposed twenty residents. The site would be separate and apart from, and not an expansion of, the facility next door at 1301 Clifton Street, N.W. The proposed facility would have a separate staff of a director and thirteen persons, eight full time and five part time. The staff would consist of one assistant director, two case workers, three full-time charge-of-quarters, one vocational counselor, one administrative assistant, four part-time charge-of-quarters and one part time cook.

12. It is proposed that the subject structure would contain five rooms on each of the three floors. Individual residents of the facility will reside on two of the three floors with an occupancy of two persons per room. Bureau facilities are planned for one person per sixty square feet. A kitchen would also be provided.

13. Residents of the proposed facility would be in a pre-parole status, be required to have a job, save money and display a positive attitude toward the community before being released. Group and family counseling would be provided as well as other treatment before being released. Residents for the facility would be referred from the D.C. Department of Corrections and the Bureau of Prisons. The Bureau may refuse acceptance of any inmate into its adult rehabilitation program. At times, young adults who commit violent crimes are not accepted. The Bureau's records reflect that two persons per month are returned to prison for drug use. Residents of the proposed facility would have a regular 6:00 P.M. curfew. On occasions it may be extended to 12:00 A.M. At that hour, a count of all residents would be made. Violations of the Bureau's standards may result in the inmates return to prison.

14. The Bureau presently operates adult rehabilitation facilities at 1301 Clifton Street, N.W., 3301 16th Street, N.W. and 1740-1742 Park Road, N.W. The Bureau previously operated an adult rehabilitation facility at 613 C Street, N.W. It was required to move from that location since the site was a redevelopment site of the Pennsylvania Avenue Development Corporation. As a result, a new facility had to be found. The Bureau sought alternative sites in Northwest and Southeast, in addition to the subject site. The Bureau operates the largest residential program in the United States and has 130 residents in facilities in the Northwest quadrant of the District. The Bureau is accredited by the American Correctional Association.

15. The Bureau's representative testified that many of the City's correctional institutions are overcrowded and facing budget constraints. It presently costs \$35.47 per day to house an inmate in a Bureau residential facility. It costs \$75.00 per day to house an inmate in the City Jail or the Lorton Correctional Institution.

16. The Bureau's representative testified that the existing and proposed facility will not have an adverse effect on the neighborhood. He further testified that the facility at 1301 had been in disrepair and the grounds unkept when the Bureau first acquired it and that that site is presently well maintained inside and outside. He testified that the property at 1303 is in a condition requiring repairs and would be improved in the same manner as was 1301. The witness testified that he has received no

complaints concerning the operation and maintenance of any of the Bureau's facilities.

17. Residents of the proposed facility will not be allowed to drive cars, except in special or emergency situations. Off-street parking can not be provided on site. On-street parking is available on nearby streets. There are no residential parking permit restrictions in the area.

18. The applicant and the Bureau's director of 1301 Clifton Street testified that they were not aware of the type or nature of other community based residential facilities within 500 feet of the site. They could provide no evidence on this issue.

19. The applicant requires a special exception under Paragraph 3105.410 to establish an adult rehabilitation facility. A special exception is also required under Sub-paragraph 3105.475 since there is another community based residential facility in the same square at 1301 Clifton Street, N.W. and others at 1539 13th Street, N.W. and 2541 13th Street, N.W., all within 500 feet of the subject site.

20. The Office of Planning and Development, by report dated October 20, 1982, and an addendum dated November 4, 1982, recommended that the application be denied. The OPD concluded that the area within 500 feet of the subject property would be asked to absorb a disproportionate number of community based residential facilities in a neighborhood already congested in terms of traffic and dwelling density. The proposed facility would further increase the degree of impact on the character of the neighborhood through its operation. The OPD further stated that it encourages the location of CBRF's throughout the community to fill a necessary social rehabilitation void. However, such locations should be selected with sensitivity to the existing character of the affected neighborhood. The Board concurs with the report and recommendation of the OPD.

21. The D.C. Police Department, by memorandum dated November 1, 1982, reported that it conducted a cursory review of its records regarding the number of times the police responded to calls for service in the area of 1303 Clifton Street, N.W., in the past ninety days. The survey revealed that the department responded forty-six percent more often to the 1300 block of Clifton than to either the 1200 or 1400 blocks of Clifton Street, N.W. The block also had the greatest number of calls for service in the surrounding eleven block area. The report noted that the statistics reviewed were based on all calls for service, from armed robbery to traffic complaints. Approximately twenty-seven of all calls for service to the 1300 block were received from the Clifton Terrace apartment complex. A further

analysis, however, of the calls for service to the 1300 block of Clifton showed that twenty-six of the runs were as a result of disorderly complaints. This same trend also existed for the 1300 block and 1400 blocks of Clifton Street, N.W. The report noted that it would appear that the area, with its high incidence of disorderly calls, may not be conducive to the rehabilitation of persons in a pre-release status. The Board concurs.

22. The D.C. Department of Environmental Services, by memorandum dated October 29, 1982, reported that it had no objection to the application.

23. A petition in opposition was entered into the record signed by twelve nearby residents. There was testimony at the public hearing in opposition to the application on the following grounds:

- a. There is an over-concentration of facilities within the immediate area. The Bureau of Rehabilitation presently operates a halfway house for federal offenders at 1301 Clifton Street, N.W., next door to the proposed new facility. The Boys Club of Greater Washington, under contract from the D.C. Department of Human Services, operates three facilities in the area at 2539 13th Street, N.W., 2541 13th Street, N.W. and 1211 Euclid Street, N.W. Unwanted children, children with emotional and health problems, sexually abused children referred by the court system, washouts from institutions and foster homes and children with school problems are housed in these facilities. The Institute for Behavior Research operates a facility for juveniles at 1117 Euclid Street, N.W. Another community facility for adults is located at 1241 Euclid Street, N.W. These six community residences are located within 1000 feet of the proposed new facility.
- b. If the purpose of community based residence facilities is assimilation of exceptional children and adults into a normal community, the saturation of an area with these facilities is contrary to this purpose, for it results in an abnormal neighborhood, deprives both existing residents and facility residents of a true community setting and compounds the problems and likelihood of crime within the neighborhood.
- c. There is an existing area of high drug use near 14th and Clifton Streets, one block from the subject site.

The Board concurs with the opposition's view that the cumulative effect of the facilities within 500 feet will have an adverse impact on the neighborhood because of traffic, noise and operations.

24. No one appeared in favor of the application at the public hearing or of record.

25. No report was received from Advisory Neighborhood Commission 1B.

26. The subject application was considered by the Board at its public meeting held on December 1, 1982. A motion made by Douglas J. Patton, seconded by William F. McIntosh, to deny the application, failed for lack of a majority of the members of the Board by a vote of 2-1 (Douglas J. Patton and William F. McIntosh to deny, Charles R. Norris opposed to the motion, Carrie L. Thornhill and Walter B. Lewis, not voting, not having heard the case). The Board requested that Mrs. Thornhill and a member of the Zoning Commission read the transcript and review the record and be prepared to vote on the application. Mrs. Thornhill and Lindsley Williams read the transcript and reviewed the record and the case was decided by the Board on January 5, 1983.

CONCLUSIONS OF LAW AND OPINIONS:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking two special exceptions, the granting of which requires compliance with Paragraph 3105.410 and Sub-paragraph 3105.475 and with Sub-section 8207.2 that the relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations.

The Board concludes that more particularly, the applicant has not met his burden of proof under Sub-paragraph 3105.475. The applicant had no knowledge of other community based residential facilities within 500 feet, other than the facility at 1301 Clifton Street. The cumulative effect of the potential adverse impact of the proposed facility and the other facilities within 500 feet on the neighborhood could not be evaluated by the applicant. The Board notes that the proposed facility will be located adjacent to an existing adult rehabilitation home within the same subject square, and that there are two youth rehabilitation homes within 500 feet of the subject site. The proposed and adjacent facility has a capacity of thirty-one persons and was established prior to the adoption of the present limitation of twenty. No off-street parking is proposed nor can any be provided on the subject site to accommodate the thirteen staff persons and visitors to the facility. The adjacent facility likewise does not provide off-street parking. Without persuasive evidence to the contrary, and

in reliance upon the reports of the Office of Planning and Development and the Police Department and testimony of persons in opposition, the Board is of the opinion that the operations of the proposed facility and the adjacent facility would have an adverse impact on the neighborhood. The applicant has also failed to address the very important issue of cumulative effect. The burden of proof has not been met.

The Board further concludes that the relief requested cannot be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map. Accordingly, it is ORDERED that the application is hereby DENIED.

VOTE: 4-1 (Lindsley Williams, Carrie L. Thornhill, William F. McIntosh to DENY; Douglas J. Patton to DENY by PROXY; Charles R. Norris opposed to Motion).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: MAY 31 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

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